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**FORCED EVICTIONS AND LAND TENURE  
INSECURITY IN SUB-SAHARAN AFRICAN  
SLUMS**

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**INTRODUCTION**

At the inauguration of the African Union in July of 1999, the Summit stated that a major component of their vision was: “to promote co-operation in all fields of human activity to raise the living standards of African peoples”. While strides have certainly been taken by the Union to meet this aspect of their mission statement, the Union has neglected to take significant action in addressing one of Africa’s most pressing and rapidly escalating problems—the growth of urban slums in many of the nations ‘ capital cities. (Shankardass 1). Over 160 million people in Sub-Saharan Africa live in slums. Annual slum growth rates in the region are a staggering 4.53 percent, twice the growth rate of slums in Southern Asia. Furthermore, slum-dwellers make up 70% of the urban population throughout Sub-Saharan Africa. (United Nations Settlement Committee 2). Causes for slum-residence include migration to urban areas in search of work, migration due to political and social instability, and lack of proper land tenure for the urban poor. This briefing will address the problem of insecure tenure in slum areas in Urban Sub-Saharan Africa, which is seen as both the largest barrier to slum development and simultaneously as the best indicator of slum conditions; as the number of residents with government recognized title deeds to property is proportional to the overall environmental conditions of the colony (UN Settlement Committee 4). By examining the history of land and dwelling ownership in a select number of Sub-Saharan African cities, reviewing the current barriers to land tenure for slum-dwellers and looking at the different perspective and positions by NGO’s, and governments on how best to address the problem, members of the African Union will be expected to construct a comprehensive

**Explanation of the Problem**

*History of the Problem*

Although the structure, size and development of slums across Sub-Saharan Africa differ tremendously, the UN-HABITAT has defined, in general, the social conditions that constitute a slum-colony. These conditions are: lack of access to adequate water supply, lack of access to adequate sanitation facilities, insufficient living area, inadequate durability of dwellings and tenure insecurity. (Berger 2). Slums are typically characterized as “heavily populated urban areas, characterized by substandard housing and squalor. (Asha website) The concept of a slum was first introduced in London in the early 1800’s, when the working class of England began migrating en masse to the city, and living in makeshift houses near to the factories where they worked. However, slum growth did not accelerate rapidly until the 20<sup>th</sup> century, when the urbanization of many developing countries in South-East Asia and Africa occurred. (Shankardass 4). The largest slum in Sub-Saharan Africa exists in Kibera, Kenya just outside Nairobi. 1 out of every 5 Nairobi-ans lives in Kibera, and the estimated population density is 750,000 people per square mile. (Affordable Housing Institute 1). Kinshasha, Kampala, Luanda, Bamako, Abuja and Lagos are among the other cities in Sub-Saharan Africa with “mega-slums” that are supposed to increase between 50 and 57% in the next ten years. (Vital 2).

The UN Millennium Development Programme highlighted the need to address slum growth in Sub-Saharan Africa in their Target 11 of Goal 7 which states that: “by 2020, achieve a significant improvement in the lives of 100 million slum-dwellers”. (UN Settlement Committee)This task is a daunting

one, however, as slum dwellers face a plethora of problems, which require the attention of the African Union.

### *Land Tenure Systems*

Land tenure is defined as “the mode by which land is held or owned, or the set of relationships among people concerning the use of land and its product”. (Berger 14). Before the twentieth century, problems of land tenure in Africa typically arose in rural settings, where the majority of the population took place. These disputes usually concerned the forced migration of tribes or villages by settlers; one noteworthy example is the forced migration of the Kikuyu tribe in Kenya by white, British settlers. With the advent of urbanization however, land tenure among the urban poor has become a focal point in the debate. Before addressing the scope of these problems however, an understanding of the different *types* of land tenure systems existing in slums is necessary. As consultant of urban development Geoffrey Payne notes, “Sub-Saharan Africa region is no exception [to the difficulties of the land tenure system] and issues of land tenure are usually surrounded by a high degree of complexity”. (Payne 1997, from Berger 14).

The first tenure system is based on ownership, and has three categories: freehold tenure delayed freehold and registered leasehold. Freehold tenure is defined as land, which is privately owned. Delayed freehold is private land that is acquired on a loan-basis, and registered leasehold is land, which has been leased to and individual on a long or short-term basis. All three of these systems are considered to be forms of formal ownership tenure by most governments. Slum-dwellers typically do not have access to forms of ownership tenure. The next system is the Rental Tenure system, which consists of public rental, private rental and shared equity. This system involves renting land from the government or from a private individual, and is, again, considered to be legitimate forms of land tenure by most municipal governments. The third tenure system is Religious Tenure, and consists of three categories: religious trust land, collective or tribal land and/or state controlled land. While religious and tribal tenure issues arise in Africa frequently, they tend to be the source of more rural issues, and are thus not a focus in slums. The fourth and final category, Non-formal Tenure, is the type of land ownership system that most slum-dwellers have. The categories under this system are: regularized squatting, unregularized squatting, unauthorized subdivisions of land and Unofficial rental. Often times, many shanties are governed by more than one of these categories, especially if

there is a slumlord present in the colony. (Berger 16-24).

### *The Process of Informal Land Tenure*

Informal land tenure is particularly prevalent in Sub-Saharan Africa because the post-colonial procedures for acquiring and regularizing land were so difficult. In the 1960’s, much of the land that had formerly been at the hands of colonial governments became both commercialized and privatized. However, a large portion of the land that was earmarked as government property had previously been claimed for religious or customary purposes. These tenure claims were virtually ignored, and instead, governments made legally “re-acquiring” land so costly that it was “impossible for poor people to formalize their, (in many cases, already existing) dwellings.” (Berger 15).

Mustapha Oyewole Bello, a reporter from Nigeria who examined slum-conditions in the cities there, wrote on the process by which informal, illegal land tenure amongst slum dwellers arises. In his report “Squatter Settlement, Accessibility of Land and the Urban Poor”, Bello writes that “squatter settlement can either at first begin as a commercial or residential enclave which at the latter stage would evolve into a settlement of mixed activities”. (Bello 2) Areas of land owned by the government, which are abandoned or neglected, are often encroached upon by squatters, especially when such places are in, “less desirable areas of the city such as wet land, refuse dump, over pipe lines and under high tension electricity transmission lines” (Bello 3). Once this land is occupied, informal rent of shanty’s crop up, as slumlords from other parts of the city, or even members of the government illegally parcel out land to squatters—often times under the false pretense of ownership. These illegally occupied squatter settlements are constantly at risk of being forcibly evicted by the government (who retains rights to the land) but are also at the day-to-day mercy of the slumlord.

Squatting and slums can also emerge on areas of land that are under the jurisdiction of the government but have been bought for agricultural purposes by land speculators, who are unable to develop the land because they themselves have not gone through the proper channels for approval.

Within major cities, slum colonies can also emerge on public lands such as gardens, freeways or city parks. Such colonies are usually smaller in size however, and their growth is physically constricted by other buildings and properties.

## *Land Tenure Insecurity*

In 2002, the Expert Group on Urban Indicators came up with what is now the most common definition of tenure security: “the right of all individuals and groups to effective protection by the state against forced evictions”. Forced evictions are removals by the government “against the will of household or communities on land areas, which they occupy illegally”. (De Soto, H. 2000, p.216-218 from Berger) Because of their insecure land tenure, slum-dwellers are under constant threat of forced eviction; by slumlords, government officials or private companies who have purchased the slum colony. These evictions can take place without any warning, and often times involve the burning or bulldozing of an entire colony. For example, in Boavista, Soba Kapassa and Befica Angola, a large scale eviction took place in 2005. Over 5000 people were forcibly removed from their homes and forced to live in settlement tents with no food or water for two years. According to the UN-HABITAT report on the eviction, over 2000 evictees are still homeless. Similarly, in 2005, over 150,000 people were evicted from Kubwa slum colony in Nigeria. (Forced Evictions, 2) Officials from the Federal Ministry of Housing and Urban Development demolished over 30,000 huts. Similar evictions take place across the continent, and do not solve the problem; instead, slum residents are forced to migrate to other colonies (thereby increasing population in those areas) or they become homeless. This particular method of response to insecure land tenure, while clearly inadequate and deleterious, has become a widely used practice in urban planning and slum elimination schemes.

## **Focus of the Debate**

### *Introduction*

Improving land tenure security for slum dwellers in Sub-Saharan Africa is of paramount importance for several reasons. First, it will deter and legalize forced evictions of slum residents. Second, property ownership (both individual home ownership and large scale land tenure) provides financial security for slum dwellers, and allows them to have formal access to jobs and banks, which often require land deeds or secure addresses as prerequisites for applications. The focus of the debate in land tenure security among slum dwellers centers around the issue of how to best provide legalization of tenure and property rights and prevent forced evictions.

### *Option 1: House Ownership and Individual Property Rights*

The first, and currently most utilized option for improving land tenure security is to grant slum dwellers individual property rights and ownership of their houses. Individual ownership deters forced eviction because proof of purchase does carry with it legal backing (a term which may or may not be understood by the individual acquiring the deed). Individual property ownership is also significantly easier to accomplish than land tenure turnover from the government to a colony. Achieving this however, requires access to bank loans, or the financial assistance of an NGO or government agency, which can be difficult to achieve. In order to apply for a bank loan, proof of permanent housing is necessary, which the majority of slum dwellers do not have. The cruel irony of this vicious circle means that, without banks stepping in to provide credit unions, micro-finance initiatives or financial schemes for the urban poor, home ownership will remain a dream (Asha-India). Even of an individual does receive a bank loan or help from an NGO, the problem with home ownership is that the land on which the individual has purchased a title deed is still not theirs; they own the hut but the government or corporation on which the colony exists still has an overriding legal claim to the land. Forced evictions are thus still a threat. In addition, the illegal sale of title deeds is still rampant, and has increased in Sub-Saharan Africa in the last decade (Berger, 30). ‘Unauthorized commercial agents’ or slumlords often ‘sell’ slum-dwellers their hut for a purchasing price, which is significantly less than the market price. In his report on the subject, Berger writes, “this process usually involves initial hire with a promise that purchase will be arranged in later stages” (Berger, 27). Inevitably however, because the slumlords and dealers have no legal claim to the land, these mergers never go through, and leave slum residents in debt and with continued insecure housing.

### *Option 2: Large Scale Land Tenure Reform*

Land tenure reform differs from individual property ownership in that it legalizes slum residents right to not only the house but also the land on which the colony is built. Often times, this requires land turnover by the government through a process known as ratification and regularization, whereby the government nullifies any existing claims to the land and simultaneously sets up a series of municipal services for the colony. The Nigerian government in several of their slum colonies implemented this process successfully. (Bello 33). This type of large scale intervention

by the government requires a great deal of political will and economic backing by the government, which is hard to obtain given the economic instability in many countries where the mega-slums exist.

Legal NGO's can be particularly helpful in obtaining large-scale land tenure for slum residents. For example, in 2003, the Center on Housing Rights and Evictions (COHRE) partnered with the Center for Public Interest Law (CEIPUL) to protect slum residents in Ghana from forced eviction and to help them gain land tenure status. The pressure put on the Ministry for Land and Forestry in January of 2003 by CEPII and COHRE halted the planned evictions for the residents in Digya, Ghana. (COHRE website). A similar case study occurred in 2002 in Kampala, Uganda, when COHRE protested the forced eviction of over 1500 slum residents on the basis of illegal land usage. As the director of the UN-HABITAT stated, "this case demonstrates that when the legal arguments against an eviction provide substantive advocacy material, and when the legal dimension is determinant, the advisers can play a crucial role in the successful resolution of the case" (Tibaijuka, 1-5). UN Nation member states from Africa have recently endorsed a broader land tenure reform scheme, noting that individual "land titling is not a panacea for all tenure security ills". Namibia, Mozambique, Uganda and Tanzania have recently piloted government-sponsored land reform schemes in their cities. (Tibaijuka, 4).

#### *Option 3: Resettlement*

The third solution to the problem of insecure land tenure and force evictions is the mass resettlement of slum colonies to low-income housing by the government. In the 1960's and 1970's, the World Bank advocated for this method of slum improvement. While this solution has become less and less advocated for by NGO's involved in land-tenure reform, like the Global Land Tenure Network (GLTN), it is still supported by the UN-HABITAT. In the 2007 report titled: *Analytical Perspectives of Pro-Poor Slum Upgrading Frameworks*, it was stated that of the specific actions by UN HABITAT, one should be that: "all lands occupied by slum dwellers in areas belonging to the Airport, the Railways, the Port Trust, the Navy and other Central agencies should be cleared of slums by redevelopment and resettlement". (*Analytical Perspectives* 54). Resettlement of slum colonies does have benefits. For example, usually the areas upon which slums are built have poor infrastructure—they are built on swamps, wasteland or abandoned agricultural fields). Resettlement can upgrade the physical space where residents live, however it also fractures community bonds between slum-dwellers and can do a great dis-

service to the services that are being provided to community members by NGO's working in the slums.

#### *Option 4: Clearance and Redevelopment of Slums*

Clearance and redevelopment of slum communities is the fourth option for improving land tenure security. Under this model, slum dwellers are placed temporarily in government housing until the colony can be bulldozed, and new high rises or more permanent forms of housing can be erected. However, this option has not been utilized by many countries in Sub-Saharan Africa because of the high economic costs of relocating an entire colony of people and then redeveloping the reconstructed space, a process which includes "sufficient ground level spaces which are needed by the low income families to operate their small businesses which they use to augment their meager incomes". (Bello 7).

#### *Option 5: Creation of 'Eviction Free Territories'*

Similar in nature to, but smaller in scale than, a government land tenure reform scheme, local municipalities can decree areas where slums have been established as "eviction free zones", which can deter forced evictions by police or private corporations. France, Italy and the Dominican Republic have pioneered two such decrees, both with moderate success. The France Municipality of Bobigny is home to a large population of migrant workers who live illegally in rented tenement buildings. In 2004, forced evictions became a large problem among the migrant working class, and in response, the mayor of the city issued a municipal decree that protected all 85000 inhabitants from eviction. (Forced Evictions)The Administrative Court in France invalidated the decree, however, other municipalities in France followed the lead of Bobigny, and, and eventually stirred national legislative action. These individual actions by members of the community with political clout, in the words of UN HABITAT "reflect the political willingness of some elected mayors to utilized their powerful mandates to address the issue of forced evictions... the municipalities identified have clearly articulated their willingness to find all possible ways and measures to eradicate such malpractice in their areas". Such decrees have not been seen in Sub-Saharan Africa yet, partly due to the fractured local governments that exist in area. (Forced Evictions 144).

#### *The Role of Women in Alleviating Land Tenure Insecurity*

Gender equality in land acquisition and tenure

is an important component of the current tenure insecurity problems. The problem arises mainly in individual title deeds to property; co-ownership rarely exists, and less than 5% of title deeds found in slums across Sub-Saharan Africa belong to women. Co-ownership and co-tenancy of houses allows for women to, “prevent the sale of the land and house by their husbands, and ensure that women are also titled either on their own or with their spouses when the land is first titled”. Co-ownership makes it harder for slum lords to evict widows and also serves as a tool for economic empowerment among women in the slums, by encouraging them to seek more formal land tenure rights with NGO’s or banks.

## Interest Group Perspectives

### *Background*

With the exception of the Global Land Tenure Network, a global NGO founded in 2006 to address issues of land tenure insecurity among the urban poor, there are surprisingly few interest groups focused on combating forced eviction in slum colonies. The ones that do exist are can be divided into two categories: those NGO’s that focus on advocacy and grassroots activism, and those that are set up as tear funds to financially back land tenure among slum dwellers, known as urban poor federation funds.

### *Global Land Tool Network*

The Global Land Tool Network is an international non-profit, which was created in 2006 in response to the Millennium Development Goals and a request from UN-HABITAT. Over the past 5 years, the GLTN, according to their mission statement, has tried to: “establish a continuum of land rights, rather than just focus on individual land titling, improve and develop pro poor land management as well as land tenure tools, unblock existing initiatives, assist in the development of gendered tools and improve the general dissemination of knowledge about how to implement security of tenure”. Within Africa, GLTN has hosted expert group meetings with the United Nations Economic Commission for Africa, and the African Land Policy Initiative to brainstorm solutions to land tenure insecurity. The latest conference took place in June of 2011 in Nairobi, Kenya and focused on engaging with government officials to try and increase broad-scale land tenure reform. GLTN discourages individual land titlement on the basis that it fails to address the roots of the, in their opinion, government-based problem. (Report on Development of GLTN).

### *Center on Housing Rights and Evic-*

### *tions (COHRE)*

The Center on Housing Rights and Evictions was created in 1994, and is based in Geneva, Switzerland. COHRE’s mission statement is: “to ensure the full enjoyment of the human right to adequate housing for everyone, everywhere.” COHRE differs markedly from GLTN in that their primary concern is to work with individuals and their houses to prevent infringement upon house titles. Within Africa, COHRE serves primarily as an advocacy organization that submits petitions to the African Commission on Human and Peoples’ Rights, and, if their grievances are not addressed, to the European Committee on Human and Social Rights. COHRE has worked specifically on land reform work for women in Zambia and Uganda, promoting the inheritance rights of women in Nigeria, Gambia, Senegal and Sierra Leone. In Nairobi, Kenya, COHRE has lobbied the government to enforce the national guidelines on evictions that were established in 2006. (COHRE website)

### *Urban Poor Federation Funds in Sub-Saharan Africa: South Africa, Zimbabwe and Namibia*

In South Africa, the U Tshani Fund was created in 1884, and finances small loans and grants solely for the purpose of housing. U Tshani has been institutionalized at the provincial and national level, which, has “made it possible for the Federation to control vital economic resources that they can use to enable local people-driven housing processes” (Millstein and others 2003, from *Analytical Perspectives* 40) Initially, private donors pumped the fund with 10 million R by the government and an additional 4 million R. The start-up capital given allowed the fund to grow exponentially; it now has generated approximately R350 million worth of net benefits from its microfinance program. (Millstein 40 from *Analytical Perspectives*). Namibia and Zimbabwe have followed in South Africa’s footsteps with similar funds of much smaller scales. In Zimbabwe, the Gungano Fund has been established using loans from South Africa, and has currently generated \$242,000 worth in member savings. Similarly, Namibia has piloted the Twahangana Fund which has been supported by the national government, and has collected over \$300,000 in member savings. (Millstein 40).

## Questions a Bill Should Address

A bill created by members of the African Union that seeks to ameliorate the current land tenure insecurity amongst slum-dwellers in Sub-Saharan Africa needs to answer three fundamental groups of questions:

1) What should the role or responsibility of the national and municipal governments be in outlawing or legalizing forced evictions and resettlement among slum dwellers? Should municipal governments be able to override national laws on the issue of eviction immunity (as was seen in France)? To what extent are local governments responsible for the creation of slum communities? Should government land upon which slums are built be privatized or does that encourage illegal squatting?

2) How does the AU weigh the issue of sustainability versus feasibility when determining whether or not house ownership or larger scale land tenure reform is a better option? Does granting slum-dwellers home ownership if the land upon which their home is built is not legally theirs? Is it possible to integrate the two options?

3) How does the dynamic nature of slum development itself play into the creation of a policy for land tenure security? Is there a more proactive response that the AU can create which seeks to address not just legalizing land rights of existing slum dwellers, but providing the financial means for entering residents to purchase their own land? What other services need to be provided to slum dwellers alongside land security rights in order to make sure that the bill is successful?

## Summary

In the next twenty years, the number of people in the world living in urban areas will surpass 5 billion. Over half of those 5 billion people will be living in slum communities. It is important to recognize the invaluable role that these 3 billion people play in urban development; a majority of slum dwellers provide the backbone of the informal labor force in cities (UN Settlement Committee 32), and are places of social and cultural diversity and integration. However, slums are also home to some of the most disadvantaged people in the world—people denied basic rights to water, health care, food and shelter. Understanding and acting upon the needs of slum dwellers by protecting their houses provides much needed economic, social, and psychological empowerment.

## Glossary

*Forced Evictions:* The permanent or temporary removal against their will of individuals, families and/or communities from the homes or land they occupy. Such removals occur without provision of or access to, appropriate forms of legal or other protection.

*Land Titling:* a type of land reform in which private individuals and families are given formal property rights to land that they have previously occupied informally or owned on a customary basis

*MDG's:* Millennium Development Goals; Eight international development goals that all 192 United Nations member states and 23 international organizations have agreed to achieve by the year 2015.

*Municipality:* An urban political unit, which has corporate status and usually powers of self-government. It can also refer to a governing body of a city.

*Tenure:* The conditions under which land or buildings are held or occupied

## Bibliography

*Affordable Housing Institute: Developing Affordable Housing Ecosystems World Wide.* Web. 10 Aug. 2011. <<http://affordablehousinginstitute.org/>>.

*Analytical Perspective of Pro-Poor Slum Upgrading of Pro-Poor Slum Upgrading Frameworks.* Publication. Cities Alliance: Cities Without Slums, 2006. Web.

Bello, Mustapha O. *Squatter Settlement, Accessibility of Land and the Urban Poor.* Rep. no. TS 7A. Fig Working Week, 2009. Print.

Berger, Tania. *Slum Areas and Insecure Tenure in Urban Sub-Saharan Africa- A Conceptual Review of African Best Practices.* Institute for Housing and Urban Research: Uppsala University, 2006. Web.

*COHRE - Center On Housing Rights and Evictions.* Web. 10 Aug. 2011. <<http://www.cohre.org/>>.

"Delhi Slums." *Asha India: Transforming Lives in the Slums of Delhi.* Web. 10 Aug. 2011. <[www.asha-india.org](http://www.asha-india.org/)>.

*Forced Evictions: Towards Solutions: First Report on*

*the Advisory Group on Forced Evictions*. Rep. Advisory Group of Forced Evictions, 2005. Print.

Lall, Shefali. "Call for Action to Halt Growth of Slum in Developing Countries." 24 June 2009. *Media Global*. Web. <<http://www.mediaglobal.org/article/2009-06-24/call-for-action-to-halt-growth-of-slums-in-developing-countries>>.

*Report on Development of GLTN Tool No: 1 (A) Enumerations for Tenure Security*. Rep. 2008. Web. 9 Aug. 2011. <[GLTN.org](http://GLTN.org)>.

Shankardass, Sharad. "Slums: Past, Present and Future." *UN State of the World Cities*. Web. 10 Aug. 2011. <[http://www.unhabitat.org/documents/media\\_centre/sowcr2006/SOWCR%204.pdf](http://www.unhabitat.org/documents/media_centre/sowcr2006/SOWCR%204.pdf)>.

Tibaijuka, Anna K. "Security of Tenure in Urban Africa: Where Are We, and Where Do We Go from Here." Speech. Key Note Address at the Royal African Society. Natural Resources Institute. 8-9 Nov. 2004. 1-5. Print.

United Nations Settlement Committee. *The Challenge of Slums: Global Report on Human Settlements 2003*. Publication. Geneva, 2003. Print. *Analytical Perspective of Pro-Poor Slum*

Vidal, John. "Africa Warned of 'slum' Cities Danger as Its Population Passes 1 Billion." *The Guardian UK*. 24 Nov. 2011. Web. 10 Aug. 2011. <<http://www.guardian.co.uk/world/2010/nov/24/africa-billion-population-un-report>>.